

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 573 OF 2015
(Subject – Recovery)**

DISTRICT: AHMEDNAGAR

Shri Ajinath S/o Kisan Kharat,)
Age: 60 years, Occu. : Retired as)
Officer Superintendent PWD;)
R/o: Ragvendra Swami Nagar, Nagar-)
Manmad Rd., Sy. No. 81/11+82/5,)
Plot No. 27/29, Maheshwari Kirana Store,)
Bolegaon Phata Road, Ahmednagar,)
Tq. & Dist. Ahmednagar.)

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
(Through its Secretary,)
Public Works Department))
Mantralaya, Mumbai- 32.)
- 2) **Chief Engineer,**)
PWD, Near Sharanpur Police Chowki,)
Nasik.)
- 3) **Superintending Engineer,**)
PWD, Aurangabad Road,)
Ahmednagar.)
- 4) **Executive Engineer,**)
PWD, Nagar Aurangabad Road,)
Fakirwada, Ahmednagar.)
- 5) **Principal Accountant General (A&E)-I**)
Maharashtra, Mumbai-20.)
- 6) **Treasury Officer,**)
Nasik.)
- 7) **Treasury Officer,**)
Ahmednagar.)

.. **RESPONDENTS**

APPEARANCE : Ms. Bhavna Panpatil, Advocate holding for Shri
S.B. Talekar, Advocate for the Applicant.

: Shri M.S. Mahajan, Chief Presenting Officer for
the Respondents.

CORAM : B.P. PATIL, MEMBER (J).

DATE : 14.06.2018.

ORDER

1. The applicant has challenged the order dated 25.07.2013 issued by the respondent No. 3 directing recovery of an amount of Rs. 5,90,169/- towards his unauthorized stay in the Government quarter and also challenged the order dated 23.09.2013 issued by the respondent No. 5 to recover the said amount from his retirement/Death Cum Retirement Gratuity to the extent of Rs. 3,44,138/- and to recover the balance of amount of Rs. 2,46,031/- from his pension amount and prayed to quash and set the said orders.

2. The applicant was working as a Senior Clerk initially with the respondent No. 3. Thereafter, he was promoted as Head Clerk. Again he was promoted as Officer Superintendent in the year 1981. He joined the services of respondent No. 2 on 01.10.1981. While serving at Ahmednagar, he was allotted the Government Quarter i.e. Store Shed No. 11, Dak Bunglow No. 2, Ahmednagar on 14.07.1997 vide order No. 274/1997. Thereafter, he was allotted another Government Quarter i.e. Store Shed No.

15 by the order dated 11.06.2009. There is no mention about the terms and conditions regarding vacation of the quarters and imposition of penalty charges, in case of not vacating the quarter after transfer in the said orders.

3. The applicant has been transferred to Jalgaon from Ahmednagar w.e.f. 01.10.2005 and he served there till 07.12.2006. Thereafter, he was transferred to Nasik w.e.f. 13.08.2009 and he served there till his retirement on superannuation on 31.05.2013. It is contentions of the applicant that in spite of his transfer to Jalgaon and Nasik he had not vacated the Government quarter allotted to him, as his daughters were studying in D.Ed. course, 11th and 12th Std. in the year 2010, 2012 and 2013 respectively. He had filed the applications from time to time with the respondents and requested them to permit him to retain the quarter due to his family difficulties and permission has been granted to him. It is his further contention that on 31.05.2013, he retired on superannuation. Prior to that no dues certificate has been issued to him on 10.01.2013 stating that no Government dues were due from him and no departmental enquiry was pending against him. The said no dues certificate has been issued for the purposes of pension. Thereafter, all of a sudden, the respondent issued communication dated 05.02.2013 directing recovery of an amount of Rs.

6,09,430/- on account of unauthorized occupation of Government quarter at Ahmednagar. Though he was transferred out of Ahmednagar during that period while calculating the period for which the applicant had been served outside Ahmednagar has been considered and on the basis of G.Rs. dated 10.09.1996 and 29.07.2011, the penalty has been calculated. Not only this, but no dues certificate issued to the applicant has been cancelled on the ground that the license fee has to be recovered from the applicant. The applicant approached his higher authorities stating that he was staying in the Government quarter with permission of his higher authorities and therefore, the recovery directed against him is illegal. Thereafter, the earlier recovery of an amount of Rs. 6,09,430/- has been modified twice and modified order directing recovery of an amount of Rs. 5,90,169/- has been issued by the respondents on 25.07.2013. On the basis of the communication sent by the Chief Engineer PWD Nasik Division, the Accountant General issued pension payment order on 23.09.2013 with a direction to recover an amount of Rs. 3,44,138/- lumpsum from the amount of Retirement/Death Cum Retirement Gratuity amount payable to the applicant and to recover the balance amount of Rs. 2,46,031/- from the pension amount payable to the applicant.

4. It is contention of the applicant that as per G.Rs. dated 10.09.1996 and 29.07.2011 the Government has power to condone the penalty imposed against the Government employee for his unauthorized occupation in the Government residential quarter. The applicant has made several applications to the Executive Engineer and other authorities to forward his application to the Government. Accordingly, his application has been referred to the higher authorities, but no decision has been taken by the higher authority on it. It is his further contention that the Executive Engineer made a report to the higher authorities that the applicant was residing in the Government quarter with permission and the said amount cannot be recovered, but the Government has not considered his request. Therefore, he approached the Lok Ayukta and the Lok Ayukta called the report from concerned authorities and after considering the same, dismissed the application of the applicant.

5. It is contention of the applicant that respondents had not initiated the action against him for vacating the Government quarter before imposing penalty and therefore, the impugned orders are illegal. It is his contention that he sought permission of his higher authority for staying in the Government quarter after his transfer and therefore, he is not liable to pay penalty to the respondents. It is his further contention that the G.Rs.

10.09.1996 and 29.07.2011 are not applicable to him and those are applicable to the employees working within the jurisdiction of Municipal Corporation of Mumbai. It is his contentions that the respondents have passed the order directing recovery of the said amount against him to harass him and accordingly, they recovered the amount and therefore, he prayed to quash the impugned orders dated 25.07.2013 and 23.09.2013 directing to recover the said amount from his pensionary benefits by filing the present Original Application.

6. The respondent Nos. 2 to 4 have resisted the contentions of the applicant by filing their affidavit in reply. It is their contention that the applicant was not eligible to get residential accommodation since beginning, but he got allotted the Government quarter by misleading his higher authority and he was occupying the Government quarter since his initial appointment. It is their contentions that in the allotment order issued to the applicant regarding the Government quarter i.e. Store shed No. 15 it has been specifically mentioned in condition No. 6 that the Government employee has to vacate the quarter within one month after his transfer from that station. But the applicant has not vacated the Government residential quarter within stipulated time. It is their contention that the Executive Engineer granted permission to the applicant to reside therein on

humanity ground. He is liable to pay license fee at penal rate as per the GRs, as he has not vacated the Government accommodation within stipulated time. It is their contention that the applicant had not vacated the Government quarter in spite of his transfer from Ahmednagar to Jalgaon and Nasik, therefore, his stay in the Government accommodation is illegal and therefore, he is liable to pay penalty.

7. It is contention of the respondents that the applicant had borrowed house building advance vide order dated 07.12.1999 and order 08.08.2000 for construction of house on the plot land bearing Survey No. 81/11+82/05, 27, Bolhegaon, Ahmednagar as per the terms and conditions mentioned in the orders. The recovery of the house building advance will start 18 months after payment or on completion of the house, which is earlier. It is their contention that as per the entry in the service of the applicant, the recovery of the house building advance granted to the applicant started from the month of May 2002 and this shows that the applicant has completed his house prior to that. It is their contentions that as per G.R. dated 07.02.2002, if the Government employee constructs or purchases own house by taking house building loan or on private land and if such house is situated in Municipal boundaries or if it is situated on a distance of 8 k.ms. from his working office, then the employee has to

vacate the Government quarter. It is their contention that the house constructed by the applicant and the distance between office of the applicant was less than 8 k.ms., therefore, the applicant was not entitled to retain the Government quarter with him, but the applicant misguided his superior officer and retained the Government quarter un-authorizely.

8. It is their contention that the applicant had not obtained permission to retain the Government quarter from 1.10.2005 to 07.12.2006 when he has been transferred to Jalgaon from Ahmednagar. It is their contention that the applicant retained the Government quarter illegally/un-authorizely and therefore, he is liable to pay penalty and accordingly, respondents have passed the orders directing recovery of an amount of Rs. 5,90,169/- on account of un-authorized occupation of residential accommodation by the applicant. It is their contention that the respondents have issued no dues certificate initially, but when they came to know about the amount of license charges by way of penalty to be recovered from the applicant, they cancelled the no dues certificate. The applicant was aware about the said fact before his retirement and therefore, he moved an application to the higher authority to stay the execution of the order to avoid the recovery of license fee of the Government quarter retained by him un-authorizely. It is their contention that the Government has

also upheld the action taken by the Executive Engineer directing recovery amount from the applicant. It is their contention that the impugned orders are issued as per rules and there is no illegality in it. Therefore, they prayed to reject the O.A.

9. The respondent No. 6 has also filed his affidavit in reply and resisted the contention of the applicant. It is his contention that he has recovered the amount of penalty from the applicant's pensionary benefits as per the directions given by the Accountant General and there is no illegality in the action taken by him and therefore, he prayed to reject the present Original Application.

10. The respondent No. 7 has filed affidavit in reply and resisted the contention of the applicant. It is contended by him that the recovery has been directed in view of Section 220 and 221 of the Maharashtra Treasury Rules, 1968 and the Drawing and Disbursing authority was directed to recover an amount of Rs. 5,90,169/- from the pensionary benefits of the applicant. It is contended by him that there is no illegality in the impugned order and therefore, he supported the impugned orders.

11. The applicant has filed rejoinder affidavit and contended that the action taken by the respondents is illegal. His house is situated within the precinct of Gram Panchayat of village

Bolhegaon and not within the precinct of Municipal Corporation Ahmednagar and it is beyond 8 kms from his office. Therefore, the provisions of G.R. dated 05.06.1976 are not applicable to him. It is his contention that he has purchased a plot and not a house and therefore, he prayed to allow the present Original Application. He has contended that he has never misled his senior officer, while getting the Government residential accommodation. It is his contention that he stayed in the residential Government quarter due to his family problems and therefore, it cannot be said that he is staying there un-authorizedly. Therefore, he prayed to allow the O.A. and to quash the impugned orders.

12. I have heard Ms. Bhavna Panpatil, learned Advocate holding for Shri S.B. Talekar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

13. Admittedly, the applicant has joined the service with P.W.D. in the year 1981 as Senior Clerk and thereafter in due course he was promoted as Head Clerk and Office Superintendent. Admittedly, he retired on superannuation w.e.f. 31.05.2013. Admittedly, the Store Shed No. 11, Dak Bungalow No. 2, Ahmednagar had been allotted to him as residential quarter by order dated 14.07.1997 initially. Thereafter, on 11.06.2009

another residential quarter i.e. Store Shed No. 15 has been allotted to him. Admittedly, the applicant was residing in the Government quarter bearing store shed No. 11 w.e.f. 14.07.1997 and store shed No. 15 w.e.f. 11.06.2009 till his retirement. Admittedly, on 01.10.2005 he has been transferred to Jalgaon from Ahmednagar and he served at Jalgaon till 07.12.2006 and thereafter he was again transferred to Ahmednagar. Thereafter he transferred to Nashik by order dated 08.07.2009 and he served there till his retirement of superannuation on 31.05.2013. Admittedly, the applicant has occupied the Government quarter at Ahmednagar since the year 1997 till his retirement i.e. on 31.05.2013, though he had been transferred to Jalgaon and Nahik in the year 2005 and the year 2009 respectively. Admittedly, the applicant obtained permission to retain the Government quarter on the ground that his daughter was perusing D.Ed. course in the year 2010 and he sought permission of his higher authority to retain the Government quarter on the ground that his another daughters are studding in 11th and 12th the Std in the year 2012 and 2013 respectively. Admittedly, the applicant has not sought permission to retain the Government quarter when he has been transferred from Ahmednagar to Jalgaon on 01.10.2005. Admittedly, the applicant stayed in the Government quarter in spite of his transfer from Ahmednagar and therefore, recovery of an amount of Rs. 5,90,169/- has been

directed against him towards license fee at the penal rate, as he stayed in the Government quarter unauthorizely, in view of the provisions of G.Rs. dated 10.06.1996 and 29.07.2011.

14. Learned Advocate for the applicant has submitted that the applicant was transferred from Ahmednagar to Jalgaon on 01.10.2005 and he was at Jalgaon till 07.12.2006. Thereafter, he was transferred to Ahmednagar. He was serving there till he has been transferred to Nashik w.e.f. 13.08.2009. It is his contention that thereafter he joined Nashik on 13.08.2009 and he was serving there till his retirement on attaining the age of superannuation w.e.f. 31.05.2013. It is his contention that he sought permission of his higher authority for retaining the Government residential quarter at Ahmednagar on the ground that his daughter was taking education in 10th Std in the year 2010 and thereafter, he also sought further extension on the ground of education of his another daughter, who was studying in D.Ed. course. Thereafter, he sought extension from time to time from his higher authority and accordingly, he retained the Government quarter till his retirement on the basis of permission granted by the higher authority. He has submitted that the applicant has retained the Government quarter obtaining the due permission from the higher authority and he was residing accordingly in the Government residential quarter at

Ahmednagar. Therefore, his stay in the Government quarter cannot be termed as unauthorized and therefore, he is not liable to pay license fee at the penal rate. He has further submitted that the applicant has not claimed house rent allowances, when he was residing in the Government quarter provided by the Government.

15. Learned Advocate for the applicant has further submitted that the applicant had purchased a plot No. 27, bearing survey No. 81/11+82/5 at village Bolhegaon, Ahmednagar and it is not within the Municipal area of Ahmednagar Municipal Corporation. Therefore, he preferred to stay in the Government residential quarter. He has submitted that the house constructed by the applicant at Bolhegaon is far away from his working place at Ahmednagar and therefore, license fee recovered from the applicant on that ground is illegal. He has submitted that the applicant has not breached any rules framed by the Government in that regard and therefore, he is not liable to pay penal charges in respect of Government residential accommodation occupied by him at Ahmednagar.

16. Learned Advocate for the applicant has further submitted that the respondents have charged license fee for the Government accommodation occupied by the applicant at penal rate on the basis of G.Rs. dated 10.09.1996 and 29.07.2011. He

has submitted that those G.Rs. are not applicable to him, as the said G.Rs. are in respect of the residential accommodation provided to the Government employees in Bombay Municipal Corporation and therefore, the calculation of amount of recoverable from him for the Government residential accommodation has been wrongly calculated and consequently, excess amount has been recovered from him and therefore, he prayed to quash the impugned orders. He has submitted that the respondents have wrongly rejected the representation made by the applicant without considering the above facts and therefore, he prayed to allow the Original Application.

17. He has submitted that in view of the G.R. dated 15.06.2015 the applicant is not liable to pay license fee at the penal rate. He has submitted that the said G.R. shows that the earlier G.R. dated 23.12.2008 had been stayed by the Government till further orders and therefore, the respondents cannot charge license fee for the residential accommodation occupied by the applicant at the penal rate. He has submitted that the respondents had not considered the representation filed by the applicant and wrongly recovered the amount of Rs. 5,90,169 from his pensionary benefits, which is illegal. Therefore, he prayed to allow the present Original Application and to refund the amount recovered from his pensionary benefits.

18. Learned Chief Presenting Officer has submitted that the applicant has made violation of the terms and conditions mentioned in the G.Rs. issued by the Government from time to time. He has submitted that the applicant was not eligible to get or to retain the Government quarter, as he had constructed his own house at Ahmednagar, which is within 8 kms from his office. But the applicant has suppressed the said fact and retained the Government accommodation unauthorizely/illegally. He has submitted that the applicant had purchased the plot No. 27 in Survey No. 27 at Bolhegaon, Ahmednagar and thereafter, borrowed the Government house building advance vide orders dated 7.12.1999 and 8.8.2000. Thereafter, he completed the construction of the house on the said plot and therefore, as per the rules, recovery of house building advance has been started from the month of May 2002. He has submitted that as per G.R. dated 07.2.2002, the Government employee who has constructed his own house by taking house building advance or constructed or purchased his own house on Government plot or private land and if such house is situated in Municipal boundaries or if it is situated within a distance of 8 kms from his working office of that employee, then he has to vacate the Government quarter. Since the applicant has constructed his own house in the year 2002, he was not entitled to retain the Government residential quarter and

therefore, he ought to have vacated the Government quarter on completion of construction of his own house. He has submitted that the distance between the house constructed by the applicant and the office is less than 8 kms, therefore, the applicant ought to have vacated the Government quarter at Ahmednagar immediately after completion of construction of his house. The applicant managed to stay in the Government quarter by taking undue advantage of his post, as he was holding key post as Fist Clerk to Executive Engineer, Ahmednagar. He misguided his superior officers and managed to get allowed another quarter i.e. Store Shed No. 15 in the year 2009 also. He has submitted that the applicant occupied the Government accommodation unauthorizely/illegally and therefore he is liable to pay license fees at penal rate as per the rules. He has submitted that the Executive Engineer, Ahmednagar granted permission to the applicant to stay in the Government quarter on the humanity ground, though he has been transferred but the Executive Engineer never permitted him to stay in the said quarter without making payment of license fee as per rules. Therefore, the applicant is liable to pay the license fee for the Government accommodation occupied by him at the penal rate. He has submitted that there is nothing illegal in the recovery directed against the applicant and therefore, he supported the impugned

orders of recovery. Therefore, he prayed to reject the present Original Application.

19. Learned Chief Presenting Officer has also submitted that the applicant managed to obtain the orders of allotment of residential accommodation and order of retention of the same by misusing his position as First Clerk to Executive Engineer, Ahmednagar which was a key post, though he was not entitled to get Government residential accommodation and therefore, he is liable to pay the license fee at penal rate for occupying Government residential quarter unauthorizely. Therefore, the respondents have rightly passed the orders directing him to pay license fee at the penal rate and recovered the same accordingly.

20. Learned Chief Presenting Officer has further submitted that the respondents have charged the license fee for unauthorize/illegal occupation of the quarter by the applicant as per the G.Rs. issued by the Government from time to time and there is no illegality in it and therefore, he prayed to reject the present Original Application.

21. On perusal of the record, it reveals that the applicant was initially appointed as Senior Clerk in the P.W.D. w.e.f. 01.10.1981 at Ahmednagar. In the year 1997, i.e. on 14.07.1997 a Government accommodation i.e. Store Shed No. 11, Dak

Bungalow No. 2 at Ahmednagar has been allotted to him for his accommodation and since then, he started residing there. On 11.06.2009 another Store Shed No. 15, Dak Bungalow No. 2, Ahmednagar had been allotted to him and since then, he was residing there. The applicant served at Ahmednagar till 01.10.2005 and thereafter, he had been transferred to Jalgaon. He worked at Jalgaon till 07.12.2006 and again he was transferred to Ahmednagar. Thereafter, he was transferred to Nashik on 13.08.2009 and he served there till his retirement on superannuation w.e.f. 31.05.2013. It shows that he was not entitled to retain the Government quarter when he was transferred to Jalgaon during the period from 01.10.2005 to 07.12.2006 and after his transfer to Nashik during the period from 13.08.2009 to 31.05.2013. So far as his occupation in the Government accommodation during the period from 01.10.2005 to 07.12.2006 is concerned, he never sought permission of his higher authorities for residing in it. There is nothing on record to show that he was permitted to retain the Government quarter to his higher authority and therefore, his occupation in the said Government quarter is unauthorized during that period. Not only this, but there is nothing on record to show that after he was transferred to Ahmednagar in the year 2006, same quarter has been allotted to him as per the Rules. The applicant was transferred to Nashik on 13.08.2009, but he had not vacated the

quarter and he was accommodated it till his retirement. The applicant has occupied the Government quarter by obtaining the permission of his higher authorities for retaining the quarter with him on the ground of education of his daughters. But it is material to note that none of the documents show that when he obtained extension for retaining the Government quarter, his daughters were studding in 10th and 12th Std. Therefore, it seems that he obtained the orders from his higher authorities regarding retention of the residential quarter by misrepresenting the authorities. Not only this, but the application for retention of the Government quarter has been filed by the applicant subsequently in the year 2010 and 2012. Not only this, but on perusal of the orders allowing the applicant to retain the Government quarter, it reveals that only permission to retain the Government quarter has been granted by the Executive Engineer and there is no mention about the charges to be levied to him in respect of his occupation of the Government quarter beyond admissible period. Therefore, the applicant is liable to pay license fee for occupying residential accommodation beyond admissible period.

22. It is also material to note here that the applicant has purchased a plot bearing No. 27 situated in survey No. 81/11+82/5 in the year 1997 at village Bolhegaon, Dist. Ahmednagar. The respondents have produced the documents

issued by the Assistant Director, Town Planning, Ahmednagar Municipal Corporation dated 26.09.2017, which shows that the boundaries of the Ahmednagar City have been extended in the month of July 1999 and the village Bolhegaon was included within the Municipal limits of the Ahmednagar Municipal Corporation. Not only this, but another document issued by the Executive Engineer, Ahmednagar shows that the distance between office of P.W.D. Ahmednagar and village Bolhegaon is 7.4 kms and it means it is below 8 kms. The respondents have also produced notification regarding the inclusion of village Bolhegaon within the precinct of Ahmednagar Municipal Corporation. The documents on record show that the applicant had taken house building advance from the Government for the construction of his house on the plot purchased by him and accordingly, loan has been sanctioned and disbursed to him by orders dated 7.12.1999 and 8.8.2000. After completion of the construction of the house, repayment of loan of house building advance has been started since the month of May 2002. It means construction of the house of the applicant has been completed before May 2002. The G.R. dated 07.02.2002 provides that if the Government employee purchases a plot and makes construction on it by borrowing loan from the Government and if the said house is situated within the distance of 8 kms from his office place, then in that case he has to vacate the Government accommodation allotted to him. It has

been specifically mentioned therein that if the house of the employee is situated within the precinct of Municipal Council or Municipal Corporation, in that case the employee has to vacate the Government quarter. The said G.R. dated 07.02.2002 is at paper book page No. 167 (Annexure A-4) onwards. In the instant case, documents show that the house was constructed by the applicant at Bolhegaon, which was included within the Municipal area of Ahmednagar Municipal Corporation in the year 1999. Moreover, the distance between house of the applicant and his office is less than 8 kms and therefore, in view of the G.R. dated 07.02.2002, the applicant was not entitled/eligible to get Government accommodation. In case, it was allotted to them prior to that, he ought to have vacated the same in view of the provisions of the G.Rs. issued by the Government from time to time. But the applicant had not vacated the Government accommodation and occupied the same in spite of the fact that he owned a house within the Municipal area of Ahmednagar Municipal Corporation, which is at the distance of less than 8 kms from his office place. The applicant suppressed the said fact and continued to occupy the Government residential accommodation till his retirement on superannuation on 31.05.2013. Therefore, it cannot be said that he had occupied the residential Government accommodation legally. Since he has not vacated the residential accommodation after construction of his

house in view of the G.R. dated 07.02.2002, his occupation in the said quarter can be termed as unauthorized occupation and therefore, he is liable to pay license fee of the said accommodation at penal rate. The respondents had considered the said aspect and rightly charged the license fee at penal rate to the applicant for occupying the Government residential accommodation illegally after his transfer from Ahmednagar in view of the G.Rs. dated 10.09.1996 and 29.07.2011. Therefore, I do not find substance in the submissions advanced by the learned Advocate for the applicant in that regard.

23. The entire amount of license fee at penal rate has been recovered from the applicant by the respondents at the time of his retirement in the year 2013 and nothing remained to be recovered in the year 2015. Therefore, the applicant cannot take benefit of the G.R. dated 15.06.2015. Not only this but in view of the para No. 14 of the said G.R., the said G.R. was not applicable to the recovery made prior to issuance of the G.R. and therefore, the said G.R. is not useful to the applicant.

24. The applicant has challenged the impugned order before the Lokayukta as well as the Government, but the Government has rightly rejected his representation and held that the recovery directed/ordered against the applicant was in accordance with the G.Rs. and there is no illegality in it. I do not

find any illegality in the said orders also. Therefore, I do not find substance in the contention of the applicant in that regard.

25. Considering the above said discussions in foregoing paragraphs, it is crystal clear that the applicant occupied the Government Residential Quarter, though he was not entitled to occupy it after construction of his own house at Bolhegaon, which is within the precinct of Ahmednagar Municipal Council and at the distance of less than 8 k.ms. from the place of his office. He retained the same in spite of his transfer from Ahmednagar and therefore, he is liable to pay license fee at the penal rate for his unauthorized occupation of the Government Residential Accommodation. The respondents have rightly decided the said issue and recovered the amount of Rs. 5,90,169/- from his pensionary benefits, as the applicant was liable to pay the same. There is no illegality in the action taken by the respondents and orders passed by the respondents in that regard. Therefore, no interference is called for in the impugned orders. Consequently, no question of issuance of directions to the respondents to refund the amount to the applicant arises. There is no merit in the Original Application. Consequently the Original Application deserves to be dismissed.

26. In view of the above said facts and circumstances, the Original Application stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 14.06.2018.

(B.P. PATIL)
MEMBER (J)

KPB S.B. O.A. No. 573 of 2015 BPP 2018 Recovery